IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 322 OF 2005

IN

WRIT PETITION NO. 1023 OF 2003

The Worli Pankaj Mansion Co-operative Housing Society Ltd. .. Petitioners

V/s

Brihanmumbai Municipal Corporation and Ors. .. Respondents

And

Chetan Dalal & Ors. .. Respondents/ Intervenors

Mr.F. Devitre i/b Mr.K.P. Jain for the Respondents/ Intervenors in support of the motion.

Mr.R.M. Nakhwa i/b Mr.V.B. Dhavan for the Petitioners.

Ms.A. Savla for Respondent No.1.

Mr.Shyam Divan i/b Harakchand & Co. for Respondents No.6 to 10.

Mr.S.G. Joshi (Respondent No.11) in person.

CORAM : H.L. GOKHALE & ABHAY S. OKA, JJ.

DATE : 20TH JANUARY 2006

P.C. :

1. Heard Mr.Devitre in support of this motion which is taken out by the Respondents/Intervenors who want to

intervene as party Respondents in the writ petition.

2. Mr.Nakhwa appearing for the Petitioner Society points out that some of the intervenors are not members of the Society. However, noting this objection, we permit these intervenors to join in the petition since in any case they are occupants and the question in the petition is about the repairs of the building. This however does not decide the question of their membership and allowing them to intervene in the proceeding does not mean that the Court is conferring any rights on them except the right of audience.

3. The other prayer of this motion is to direct the Society to comply with the order dated 29th April 2003 to carry out the repairs of Building "B". Mr.Devitre is not pressing this prayer. He is pressing the alternative prayer, i.e. prayer (c), that the intervenors be allowed to carry out the repairs. This prayer cannot be entertained for the simple reason that it is the Society which has the lawful authority to carry out the repairs of its property if required., The individuals, whose membership is in dispute, cannot be entrusted with any such right. Prayer (c) is therefore rejected.

4. Motion stands disposed of.

(H.L. GOKHALE, J.)

(ABHAY S. OKA, J.)